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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. |
|-----------------|-------------|----------------------|---------------------|
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09/051,685 08/19/98 SANDERSON

S UNMC63102

000110 HM12/0804
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EXAMINER

VANDER VEGT, F

ART UNIT

PAPER NUMBER

1644

DATE MAILED:

08/04/99

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trad marks

Office Action Summary

Application No.
09/051,685

Applicant(s)
Sanderson et al

Examiner
F. Pierre VanderVegt

Group Art Unit
1644



☒ Responsive to communication(s) filed on Jan 6, 1999

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire one month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

☒ Claim(s) 1-25 ~~is/are~~ pending in the application.

Of the above, claim(s) _____ is/are withdrawn from consideration.

☐ Claim(s) _____ is/are allowed.

☐ Claim(s) _____ is/are rejected.

☐ Claim(s) _____ is/are objected to.

☒ Claims 1-25 are subject to restriction or election requirement.

Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been
☐ received.

☐ received in Application No. (Series Code/Serial Number) _____.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☐ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

DETAILED ACTION

This application is a rule 371 continuation of PCT/US96/16825, which claims priority to provisional application 60/005,727.

New claim 25 has been added.

Claims 1-25 are currently pending in this application.

Please Note: In an effort to enhance communication with our customers and reduce processing time, Group 1640 is running a Fax Response Pilot for Written Restriction Requirements. A dedicated Fax machine is in place to receive your responses. The Fax number is 703-305-3704. A Fax cover sheet is attached to this Office Action for your convenience. We encourage your participation in this Pilot program. If you have any questions or suggestions please contact Paula Hutzell, Supervisory Patent Examiner at Paula.Hutzell@uspto.gov or 703-308-4310. Thank you in advance for allowing us to enhance our customer service. Please limit the use of this dedicated Fax number to responses to Written Restrictions.

Election/Restrictions

1. Restriction is required under 35 U.S.C. 121 and 372.

This application contains the following inventions or groups of inventions which are not so linked as to form a single general inventive concept under PCT Rule 13.1.

In accordance with 37 CFR 1.499, Applicant is required, in response to this action, to elect a single invention to which the claims must be restricted.

Group I, claim(s) 1-17, drawn to a molecular adjuvant having binding affinity for a characteristic determinant of an antigen presenting cell.

Group II, claim(s) 18-24, drawn to a method for activating an antigen presenting cell using a molecular adjuvant having binding affinity for a characteristic determinant of said antigen presenting cell.

Group III, claim(s) 25, drawn to antibodies.

(Why is this being examined)

2. The inventions listed as Groups I-III do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features for the following reasons:

The compound of Group I also encompasses antibodies specific for a characteristic determinant of an antigen presenting cell (APC) which have the separate utility of specifically identifying APCs within a cell population and the claim of Group III is a product-by-process claim drawn to antibodies and the claim therefore encompasses any antibody because a compound remains the same irrespective of the manner in which it is obtained. Accordingly, the Groups are not related to a single general inventive because they lack the same or corresponding special technical features.

3. This application contains claims directed to more than one species of the generic invention. These species are deemed to lack unity of invention because they are not so linked as to form a single general inventive concept under PCT Rule 13.1.

The species are as follows:

In Group I: (as target ligands)

- I. C5a receptor
- ii. IFN-gamma receptor
- iii. CD21 (C3d) receptor
- iv. CD64 (FcγRI) receptor
- v. CD23 (FcεRII) receptor

In Group II: (as condition being treated)

- I. infection
- ii. tumor

Should Applicant elect Group I or Group II, Applicant is required, in reply to this action, to elect a single species to which the claims shall be restricted if no generic claim is finally held to be allowable. The reply must also identify the claims readable on the elected species, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered non-responsive unless accompanied by an election.

Upon the allowance of a generic claim, Applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, Applicant must indicate which are readable upon the elected species. MPEP

§ 809.02(a).

The claims are deemed to correspond to the species listed above in the following manner:

Group I:

I. 3-6

ii. 3, 8, 9

iii. 3

iv. 3

v. 3

Group II:

I. 22

ii. 23

The following claim(s) are generic:

Group I:

1, 2, 7, 10-17

Group II:

18-21, 24

The species listed above do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, the species lack the same or corresponding special technical features for the following reasons:

The species of Group I each relate to a different target antigen on the surface of the antigen presenting cells and each of those has a different ligand, different binding properties and presents immunologically distinct epitopes. Therefore, each of the targets would require a different search. The species of Group II each relate to a different clinical condition and the immune response mounted to each is distinct from the other.

4. A telephone call was made to Janet Reed on July 21, 1999 to request an oral election to the above restriction requirement, but did not result in an election being made.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

5. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a petition under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(I).

Conclusion

6. Papers related to this application may be submitted to Technology Center 1600, Group 1640 by facsimile transmission. Papers should be faxed to Group 1640 via the PTO Fax Center located in Crystal Mall 1. The faxing of such papers must conform with the notice published in the Official Gazette, 1096 OG 30 (November 15, 1989). The fax phone number for official documents to be entered into the record for Art Unit 1644 is (703)305-3014.

Any inquiry concerning this communication or earlier communications from the Examiner should be directed to F. Pierre VanderVegt, whose telephone number is (703)305-6997. The Examiner can normally be reached Tuesday through Friday and even-numbered Mondays (on 1999 365-day calender) from 7:00 am to 4:00 pm ET. A message may be left on the Examiner's voice mail service. If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Ms. Christina Chan can be reached at (703)308-3973. Any inquiry of a general nature or relating to the status of this application should be directed to the Technology Center 1600 receptionist, whose telephone number is (703)308-0196.



F. Pierre VanderVegt, Ph.D.
Patent Examiner
Technology Center 1600
August 2, 1999